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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,259	04/24/2006	Ziad Badarneh	RR-597 PCT/US	6734
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RODMAN RODMAN 10 STEWART PLACE SUITE 2CE WHITE PLAINS, NY 10603				
EXAMINER				
DIAZ, THOMAS C				
ART UNIT		PAPER NUMBER		
3656				
MAIL DATE		DELIVERY MODE		
10/14/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/556,259

**Applicant(s)**

BADARNEH ET AL.

**Examiner**

THOMAS DIAZ

**Art Unit**

3656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) 1-6 and 10-20 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 7-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 11/10/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-850)  
Paper No(s)/Mail Date 11/10/2005  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Species 2 claims 7-9 in the reply filed on 07/17/2009 is acknowledged. The traversal is on the ground(s) that Species 1, 2 and 3 are closely interrelated and thus would not necessitate a burdensome search. This is not found persuasive because Species 1, 2, and 3 each are drawn towards a specific engagement piece (i.e. connection to the pedal body) and each species contains mutually exclusive characteristics and thus would necessitate a burdensome search across not only different classes such as class 403 and 16. Additionally, this case is restricted under PCT rule 13.1 and thus the requirement is to show lack of unity. The fact that there is no common special technical feature linking the groups provides proper basis for maintaining the restriction.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

Claim element "Spring-loaded means for" is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. The written description only implicitly or inherently sets forth the corresponding structure, material, or acts that perform the claimed function.

Pursuant to 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181, applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites the corresponding structure, material, or acts that perform the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function.

### ***Claim Objections***

Claims 7-9 are objected to because of the following informalities: The word "characterised" should be spelled - - characterized - -. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 7 recites "its bracket tiltably attached to the pedal body about an axis that extends transversely through a longitudinal axis to the longitudinal axis of the pedal shaft". The phrase is grammatically awkward and thus it is unclear what the relationship between the axes are. For example, is the "an axis" transverse to both mentioned longitudinal axis? Are both the longitudinal axes the same or are they longitudinal with respect to one another? Are there two distinct longitudinal axes?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (USP 5048369).**

Regarding claim 7, Chen discloses a similar device comprising a pedal body (fig.1, 2) that is rotatably attached to a pedal shaft (fig.1, 20) which at a free end thereof can be fastened to the crank arm (see fig.8), wherein the engagement faces of the pedal body have brackets (fig.1, 5, 21, 22) [adapted for possible engagement with a fastening piece (fig.1, 16 and 17) secured to a functional part (fig.1, 1) designed for cooperation with a user's foot], characterized in that one of the engagement faces of the pedal body is [for use during the performance of conventional training exercise] (Treated as intended use and not given patentable weight); and that the opposite

engagement face of the pedal body has its bracket tiltably attached to the pedal body about an axis that extends transversely through a longitudinal axis to the longitudinal axis of the pedal shaft (fig.1 and fig. 7, brackets 5 are tiltably attached to the pedal body about a transverse axis).

Regarding claim 8, the brackets are equipped with spring-loaded means (fig.1, 5 and corresponding springs 3) for the fastening of a fastening piece secured to a functional part in the form of a cycling shoe or foot engagement part such as a foot plate. (Note the specification objection for the 112<sup>th</sup> sixth recitation in this claim presented above)

Regarding claim 9, the tiltable bracket (fig.1, one of the brackets 5 is tiltable to one side and the other to another side and both are tiltable along with the bicycle if the bicycle were to tilt) is tiltable to both sides relative to the pedal body by an acute angle.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS DIAZ whose telephone number is (571)270-5461. The examiner can normally be reached on Monday-Friday 8:30am to 5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571)272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas Diaz/  
Examiner, Art Unit 3656

/Richard WL Ridley/  
Supervisory Patent Examiner, Art Unit 3656